

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

FRB-03 INR-07 NSAE-00 CIEP-01 SP-02 STR-04 TRSE-00

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E.O. 11652: NA

TAGS: EIND, ETRD, EEC

SUBJECT: EC GOVERNMENT PROCUREMENT HARMONIZATION -- A STATUS
REPORT

REFS: A) EC-A-141, APRIL 7, 1975

B) EC BRUSSELS 2812

C) EC BRUSSELS 981

D) EC 8290, OCT 24, 1974

E) EC BRUSSELS 5265 JULY 16, 1974

1. SUMMARY: CONTACTS TELLS US THAT IT IS MOST UNLIKELY THAT THERE WILL BE ANY PROGRESS ON THE EC COUNCIL DRAFT DIRECTIVE ON GOVERNMENT PROCUREMENT UNTIL AFTER THE BRITISH REFERENDUM. THE OUTSTANDING ISSUES REPORTED IN EARLIER CABLES REMAIN. THE COMMISSION HAS NOW PROVIDED COREPER WITH A DRAFT EC COUNCIL RESOLUTION ON THE TREATMENT OF THIRD COUNTRY GOODS PENDING THE NEGOTIATION OF AN INTERNATIONAL AGREEMENT ON GOVERNMENT PROCUREMENT. END SUMMARY.

2. DURING A MEETING WITH EC COMMISSION OFFICIAL DERISBOURG (INTERNAL MARKET) ON APRIL 3, HE REPEATED HIS EARLIER
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JUDGMENT THAT THERE WOULD BE NO PROGRESS ON THE EC

DRAFT DIRECTIVE ON GOVERNMENT PROCUREMENT UNTIL AFTER THE BRITISH REFERENDUM (SEE REFTEL C). A BRITISH PERM REP CONTACT HAS TOLD US THAT HE ALSO STRONGLY DOUBTS THAT ANY PROGRESS COULD BE MADE ON OUTSTANDING ISSUES BEFORE THE REFERENDUM. THE UK WOULD PREFER THAT THE NEXT COREPER OR WORKING GROUP DISCUSSIONS BE HELD AFTER THE REFERENDUM AND HAS SO INFORMED THE IRISH PRESIDENCY.

3. THE MAJOR UNRESOLVED ISSUES ARE : INCLUSION OR EXCLUSION OF TELECOMMUNICATIONS AND COMPUTERS FROM THE SCOPE OF THE DIRECTIVE (COMMISSION PROPOSALS ON TELECOMMUNICATIONS WERE REPORTED IN REFERENCE A AND B); EXCEPTIONS FOR DEVELOPMENT REGIONS (E.G., THE ITALIAN MEZZOGIORNO, BERLIN AND GERMAN BORDER ZONES, UK DEVELOPMENT REGIONS); THE MINIMUM VALUE OF CONTRACTS WHICH WOULD BE COVERED BY THE DRAFT DIRECTIVE (THE LIKELY RANGE IS 150-200,000 UNITS OF ACCOUNT); THE TREATMENT OF THIRD COUNTRY GOODS. (OUR BRITISH CONTACT TOLD US THAT ALTHOUGH THE PRESENT ADVANTAGES GIVEN TO UK DEVELOPMENT AREAS IN UK GOVERNMENT PROCUREMENT REGULATIONS HAVE LITTLE PRACTICAL EFFECT, ANY EC AGREEMENT TO ELIMINATE THEM WOULD HAVE ABIOUS POLITICAL RAMIFICATIONS AT THIS JUNCTURE.)

4. THERE WAS BEEN ONE CHANGE IN THE SITUATION SINCE OUR LAST TALK WITH DERISBOURG (SEE REFTEL C). ON MARCH 19 THE COMMISSION SENT COREPER THE LONG AWAITED DRAFT COUNCIL RESOLUTION ON THE TREATMENT OF THIRD-COUNTRY GOODS BY THE MEMBER STATES UNTIL THERE IS AN INTERNATIONAL GOVERNMENT PROCUREMENT AGREEMENT ASSURING "SUFFICIENT" RECIPROCITY WITH THIRD COUNTRIES. (COPIES OF THE DRAFT RESOLUTION WERE SENT BY TRANSMITTAL SLIP ON APRIL 10 TO EUR/RPE, COMMERCE AND STR.)

5. THE SUBSTANCE OF THE DRAFT RESOLUTION IS THAT UNTIL THE ESTABLISHMENT OF A COMMON EC POLICY TOWARD THIRD-COUNTRY GOODS (WHICH IS MOST LIKELY TO OCCUR LIMITED OFFICIAL USE

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IN CONJUNCTION WITH AN INTERNATIONAL AGREEMENT), THE MEMBER STATES MAY TREAT THIRD-COUNTRY GOODS FOR GOVERNMENT PROCUREMENT PURPOSES AS THEY WISH, I.E. APPLY THEIR OWN NATIONAL DISCRIMINATORY OR NON-DISCRIMINATORY POLICIES. TO RESOLVE THE PROBLEM OF THIRD-COUNTRY GOODS WHICH HAVE PAID CUSTOMS DUTIES TO A MEMBER STATE AND ARE THUS IN FREE CIRCULATION WITHIN THE COMMUNITY (ROME TREATY ARTICLES 9 AND 10),

THE COMMISSION IS PREPARED TO ALLOW A MEMBER STATE
TO APPLY PROTECTIVE MEASURES UNDER ART. 115 AND
DISCRIMINATE AGAINST THIRD-COUNTRY GOODS IN FREE
CIRCULATION IN ORDER TO SUPPORT THE NATIONAL
PROCUREMENT POLICIES IT HAS ADOPTED TOWARD THIRD-
COUNTRY GOODS. GREENWALD

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